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EX PARTE

April 13, 2017

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143, WC Docket No. 05-25; RM-10593, Technology Transitions, GN Docket Nos. 13-5, 12-353; RM-11358

Dear Ms. Dortch:

Access Point Inc.; Birch Communications Inc.; Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications; New Horizon Communications Corp.; and Xchange Telecom LLC (collectively, "The Wholesale Voice Line Coalition" or "Coalition") support Granite Telecommunications LLC's proposal to establish a reasonable multi-year transition period¹ for the Commission's proposal² to sunset the "reasonably comparable" platform rule first adopted in the *Technology Transitions Order*.³ As the Coalition has noted in its previous submissions⁴ and as



¹ *Ex Parte* Letter from Samuel L. Feder, Counsel for Granite Telecommunications, LLC to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al. (filed April 12, 2017) ("Granite *Ex Parte*").

² See *Business Data Services in an Internet Protocol Environment, Technology Transitions, Special Access for Price Cap Local Exchange Carriers, AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Draft Report and Order, WC Docket No. 16-143, GN Docket No. 13-5, WC Docket No. 05-25, RM-10593, FCC-CIRC1704-04 (rel. Mar. 30, 2017) ("Draft BDS Order"), included on the Chairman's tentative agenda for the April 20, 2017 open meeting.

³ *Technology Transitions et al.*, Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking, 30 FCC Rcd. 9372, 9443-44 ¶ 132 (2015) ("*Technology Transitions Order*").

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other parties have advocated,⁵ the Commission should adopt a reasonable transition period before sunseting this regulatory backstop to prevent market disruption and harm to consumers.

The Commission has a long history, under both Republican and Democratic leadership, of promoting gradual and orderly transitions to avoid service disruptions and protect customers. Indeed, there is little “precedent for such an abbreviated transition.”⁶ In the past the Commission, when reforming the intercarrier compensation regime, “gave carriers six to nine years to transition.”⁷ In reforming video relay services the Commission “adopted a four-year transition.” There are numerous other examples of where there was broad consensus on the Commission for the need for a multi-year transition.⁸

⁴ *Ex Parte* Letter from the Wholesale Voice Line Coalition to the Honorable Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-143 et al. (filed Mar. 29, 2017); *Ex Parte* Letter from the Wholesale Voice Line Coalition to the Honorable Marlene H. Dortch, Secretary, FCC, WC Docket No. 16-143 et al. (filed Apr. 10, 2017) (“Apr. 10 *Ex Parte*”).

⁵ See *Ex Parte* Letter from Maggie McCready, Vice President, Federal Regulatory and Legal Affairs, for Verizon, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al. (filed Apr. 6, 2017) (“Verizon *Ex Parte*”); *Ex Parte* Letter from Paul Margie, Counsel to Sprint, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al. (filed Apr. 10, 2017) (“Sprint *Ex Parte*”); *Ex Parte* Letter from Karen Reidy, Vice President of Regulatory Affairs for INCOMPAS, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al. (filed Apr. 11, 2017) (“INCOMPAS *Ex Parte*”).

⁶ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, FCC 15-136 (Nov. 5, 2015) (Dissenting Statement of Commissioner Ajit Pai) (Order’s transition period of 90 days was too short and contrary to precedent).

⁷ *Id.*

⁸ See, e.g., *Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications*, 31 FCC Rcd. 5817 (2016) (Statement of Commissioner Ajit Pai noting that both he and Commissioner O’Rielly urged the Commission to include a more reasonable transition period); *Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service*, WT Docket No. 12-40, FCC 17-27 (rel. Mar. 24, 2017) (establishing a 7-year transition period to provide a “reasonable amount of time” for necessary industry parties to discuss safe coexistence in the 800 MHz band); *Improving Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, 31 FCC Rcd. 9336 (2016) (establishing a 2-5 year transition period for handset manufacturers and services providers to adjust their portfolios); *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, 30 FCC Rcd. 3959 (2015), (establishing a 5-year transition period that gives incumbent licensees to “sufficient time to decide whether to seek a new license under a modified regime or look for other alternatives that may be available at that time”); *Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, 29 FCC Rcd. 12865 (2014) (finding that a transition period was “necessary and appropriate” such that affected parties can make modifications to conform to the adopted rules); *Revision of Part 15 of the Commission’s Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5GHz Band*, 29 FCC Rcd. 4127 (2014) (imposing a 1-2 year transition period); *Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission’s Rules*, 27 FCC Rcd. 6529 (2012),

And that consensus is reflected in the record here as well which contains ample support for a reasonable multi-year transition period. For one, CLECs that use the platform have submitted evidence of the significant customer harm which would result from premature sunset of the reasonably comparable platform rule, including hundreds of customer letters explaining the detrimental effects of a flash cut.⁹ Verizon recently “emphasized the need for a suitable transition period to allow companies to adjust to the proposed detariffing actions and for preserving existing contracts”;¹⁰ Sprint stressed “the importance of adopting a suitable transition period to avoid the rate shock that would result from flash-cut deregulation”;¹¹ and INCOMPAS urged the Commission to provide “a minimum of three years for the industry and consumers to transition to these policy changes” as consistent with the Commission’s policies.¹²

A transition period is consistent with the Commission’s longstanding goals of protecting competition and promoting innovation. The Coalition urges the Commission to adopt a reasonable transition period, of a minimum of 2 years, before sunsetting CLECs’ reasonably comparable access to the platform.

Sincerely,

/s/ Russell M. Blau

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(imposing a six-month transition period intended to “minimize the impact that sunset of [the] viewability rule may have on consumer and must-carry stations.”).

⁹ These companies, including Starbucks, Sears Holding Company, and Bed Bath & Beyond, who collectively conduct business at over 60,000 locations in all fifty states, urged the Commission to preserve competition and to deny ILEC efforts to “re-monopolize the telecommunications market” where ILECs are frequently the only viable “last mile” network connection. *See Ex Parte* Letter from Michael B. Galvin, Counsel for Granite Telecommunications, LLC to Marlene H. Dortch, Secretary, FCC, GN Docket No. 13-5 et al., Attachment (filed June 23, 2015).

¹⁰ Verizon *Ex Parte*.

¹¹ Sprint *Ex Parte*.

¹² INCOMPAS *Ex Parte* at 2.